

## Department of State

§ 40.201

or service in the U.S. Armed Forces except an alien who held nonimmigrant status at the time of such departure.

### §§ 40.83–40.89 [Reserved]

#### Subpart J—Aliens Previously Removed

SOURCE: 61 FR 59184, Nov. 21, 1996, unless otherwise noted.

#### § 40.91 Certain aliens previously removed. [Reserved]

#### § 40.92 Aliens unlawfully present. [Reserved]

#### § 40.93 Aliens unlawfully present after previous immigration violations. [Reserved]

### §§ 40.94–40.99 [Reserved]

#### Subpart K—Miscellaneous

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996.

#### § 40.101 Practicing polygamists.

An immigrant alien shall be ineligible under INA 212(a)(9)(A) only if the alien is coming to the United States to practice polygamy.

#### § 40.102 Guardian required to accompany excluded alien.

INA 212(a)(9)(B) is not applicable at the time of visa application.

#### § 40.103 International child abduction.

An alien who would otherwise be ineligible under INA 212(a)(9)(C)(i) shall not be ineligible under such paragraph if the U.S. citizen child in question is physically located in a foreign state which is party to the Hague Convention on the Civil Aspects of International Child Abduction.

[61 FR 1833, Jan. 24, 1996]

#### § 40.104 Unlawful voters. [Reserved]

#### § 40.105 Former citizens who renounced citizenship to avoid taxation. [Reserved]

### §§ 40.106–40.110 [Reserved]

#### Subpart L—Failure to Comply with INA

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996.

#### § 40.201 Failure of application to comply with INA.

(a) *Refusal under INA 221(g)*. The consular officer shall refuse an alien's visa application under INA 221(g)(2) as failing to comply with the provisions of INA or the implementing regulations if:

(1) The applicant fails to furnish information as required by law or regulations;

(2) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(6)(C);

(3) The application is not supported by the documents required by law or regulations;

(4) The applicant refuses to be fingerprinted as required by regulations;

(5) The necessary fee is not paid for the issuance of the visa or, in the case of an immigrant visa, for the application therefor;

(6) In the case of an immigrant visa application, the alien fails to swear to, or affirm, the application before the consular officer; or

(7) The application otherwise fails to meet specific requirements of law or regulations for reasons for which the alien is responsible.

(b) *Reconsideration of refusals*. A refusal of a visa application under paragraph (a)(1) of this section does not bar reconsideration of the application upon compliance by the applicant with the requirements of INA and the implementing regulations or consideration of a subsequent application submitted by the same applicant.

[56 FR 30422, July 2, 1991, as amended at 61 FR 1835, Jan. 24, 1996. Redesignated at 61 FR 59184, Nov. 21, 1996]